IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

Bail Appl..No. 4832 of 2007()

CRIME NO.216/2007 OF MANJESHWAR POLICE STATION

PETITIONERS/ACCUSED

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1. YUSUF CHERUGOLI, S/O. MOOSA,
   THOTA HOUSE, CHERUGOLI,
   MANGALPADY, KASARGODE.

2. MOHAMMED NAFEEZ @ APPI,
   S/O. SABJAM ISMAIL, KUTHKOTTI,
   P.O. MANGALPADY.

3. HAMEED, S/O. ABDULLA,
   RESIDING AT SAHIDA MANZIL,
   KUTHKOTTI HOUSE, UPPALA,
   MANGALPADY.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT & STATE

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1. THE SUB INSPECTOR OF POLICE,
   MANJESWAR POLICE STATION.

2. STATE OF KERALA REP .BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No. 4832 of 2007

Dated this the 10th day of August 2007

O R D E R

Application for anticipatory bail. Petitioners are accused 1 to 3. Altogether there are three accused persons. The crux of the allegations against the petitioners is that they in furtherance of their common intention, trespassed into the house of the de facto complainant. The de facto complainant's mother and sister were residing with him. Indecent behaviour was directed against the mother of the de facto complainant. She was indecently assaulted also. Crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. False and vexatious allegations are being raised against the petitioners, it is submitted.

3. Application is opposed by the learned Public Prosecutor. The learned Public Prosecutor submits that there are absolutely no circumstances which justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C

in favour of the petitioners. This is a fit case where the petitioners must be directed to appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I do not find any features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioners must appear before the learned Magistrate or the investigating officer and seek regular bail in the normal and ordinary course.

In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate having jurisdiction and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007